

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved On: 04.10.2016

Delivered On: 07.10.2016

CORAM:

THE HONOURABLE MR. JUSTICE R.SUBBIAH

W.P.No.11113 of 2013

and M.P.No.2 of 2013

Thavamani

.. Petitioner

vs.

1.The Commissioner,
Department of Social Welfare and
Nutritious Meal Programme,
Chepauk, Chennai-600 005.

2.The District Collector,
Dharmapuri District,
Dharmapuri.

3.The Commissioner,
Harur Panchayat Union,
Harur, Dharmapuri District.

4.Bharathi
Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records relating to the order in Na.Ka.No.11393/2012/X1 dated Nil.08.2012 signed on 21.08.2012 on the file of the second respondent, quash the same and consequently direct the respondents 1 to 3 to appoint the petitioner to the post of Noon Meal Organiser in Pazhayakongam Elementary School, Harur Panchayat Union, Dharmapuri District.

For Petitioner : Mr.E.Manikandan

For Respondents : Mr.S.Gunasekaran,
Additional Govt. Pleader for R1 and

R2

Mr.S.Nambirajan for R3

No appearance for R4

O R D E R

This Writ Petition has been filed praying for issuance of a Writ of Certiorarified Mandamus to quash the order in Na.Ka.No.11393/2012/X1 dated Nil.08.2012 signed on 21.08.2012 on the file of the second respondent and consequently direct the respondents 1 to 3 to appoint the petitioner to the post

of Noon Meal Organiser in Pazhayakongam Elementary School, Harur Panchayat Union, Dharmapuri District.

2. The petitioner studied upto X Standard (pass) and he married one Thangarasu and due to wedlock, begot three children. The petitioner's husband was engaged in seasonal coolie work and he died on 02.11.2010, leaving behind her, his aged parents and three children. While so, the second respondent called for applications to fill up the vacant posts of Noon Meal Organizer, pursuant to the order passed by the Government in G.O.Ms.No.149, Social Welfare and Noon Meal Department dated 20.11.2009 and the petitioner applied for the post of Noon Meal Organizer in the Palayakongam Elementary School, which is situated within one kilometer from her residence. The petitioner was called for interview by the third respondent and she attended the interview on 29.06.2012 and 30.07.2012 and out of 66 candidates appeared for the interview, 3 women are destitute widows including the petitioner herein and she is one of the candidate having crossed the age of 39 years. Therefore, the petitioner anticipated that she would be favourably considered to the post of Noon Meal Organizer. However, to her shock and surprise, the fourth respondent was appointed by the second respondent vide proceedings dated 21.08.2012. The petitioner would further state that the fourth respondent was not fully qualified as she had passed only IX Standard and she is not a widow and she has also suppressed the records relating to communal status. The fourth respondent belongs to Scheduled Caste, whereas she had managed to obtain a certificate to the effect that she belongs to Scheduled Tribe Community. Further, the fourth respondent is residing at a distance of 5 Kilometers from the elementary school whereas the petitioner is residing within 1 Kilometer distance and the fourth respondent, in order to get appointed to the post of Noon Meal Organizer, had adopted deceitful means, which the respondents 1 to 3 had failed to take note of. Challenging the appointment of the fourth respondent by the second respondent, vide order dated 21.08.2012, the petitioner has come forward with this writ petition.

3. When the matter is taken up for consideration, the learned counsel appearing for the petitioner made a detailed submission by adverting to the averments made in the affidavit.

4. Per contra, Mr.S.Gunasekaran, learned Additional Government Pleader appearing for the respondents 1 to 3 has drawn the attention of this Court to the counter affidavit of the third respondent and would submit that totally 66 persons applied for the post of Noon Meal Organizer under open competition and the fourth respondent has got 36 marks and whereas the petitioner has got only 33 marks and as per G.O.Ms.No.203, persons within a radius of 10 Kilometers can be

selected even from other Panchayat, if there is no eligible candidates within the radius of 3 Kilometers and based on the report of the interview team and marks obtained by the fourth respondent, she was selected to the said post and posted at Palaiyakongam Panchayat Union Elementary School and hence, there is no violation of any Government Order. It is further stated in the counter affidavit that the fourth respondent belongs to Scheduled Tribe community and as per G.O.Ms.No.163, SW & NMP Department dated 18.8.2010, relaxation for educational qualification is given to Scheduled Tribe candidates and as such, she was eligible for the said post. Thus, the learned Additional Government Pleader prays for dismissal of this writ petition.

5. This Court has considered the rival submissions and also perused the entire materials placed before it.

6. The only ground raised by the petitioner is that the fourth respondent has suppressed her communal status and was managed to get Scheduled Tribe community certificate and moreover, she was less qualified than that of the petitioner. According to the learned Additional Government pleader, there is no such suppression and the petitioner has simply raised a vague and bald statement in the affidavit without any tenable material to substantiate her contention. As per G.O.Ms.No.163, SW & NMP Department dated 18.08.2010, as relied on by the learned Additional Government Pleader, relaxation for educational qualification is given to Scheduled Tribe candidates and as such, relaxation was given to fourth respondent in this case. Furthermore, there is no suitable candidate available within the radius of 3 Kilometers from the school and therefore, the respondents 1 to 3 are entitled to appoint the fourth respondent, who is residing within the distance of 10 Kilometers. In fact there is absolutely no legal ground raised to quash the order of appointment of the fourth respondent by the second respondent and therefore, the writ petition deserves dismissal.

7. In the result, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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-sd-
Assistant Registrar

/true copy/

Sub Assistant Registrar

jvm

To

1.The Commissioner,
Department of Social Welfare and
Nutritious Meal Programme,
Chepauk, Chennai-600 005.

2.The District Collector,
Dharmapuri District,
Dharmapuri.

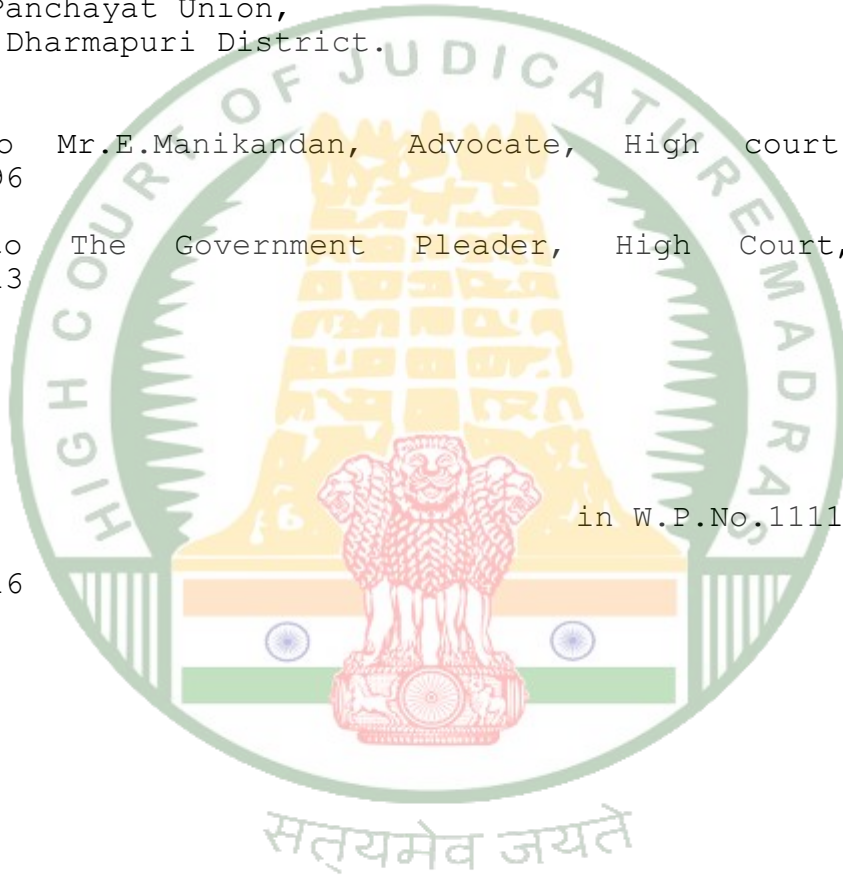
3.The Commissioner,
Harur Panchayat Union,
Harur, Dharmapuri District.

+1 CC to Mr.E.Manikandan, Advocate, High court, madras
SR.No.57996

+1 CC to The Government Pleader, High Court, Madras
SR.No.58213

co rsk
ns 12.11.16

Order
in W.P.No.11113 of 2013



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